

Town of Otsego Zoning Board of Appeals (ZBA)

Minutes – August 15, 2023

(Will be approved with any necessary amendments at the next meeting)

PUBLIC HEARINGS

23.04 – Robert Doran – Area variances, addition of deck within 100 feet of Canadarago Lake in RA2 district – 106 Marble Road Extension (#52.11-1-15.00)

Chairman Crowell opened the Doran public hearing at 7:00 PM, gave a brief description of the application, and asked if anyone from the public had questions or comments about it. No one responded. Crowell closed the hearing.

23.06 – Bernard Madden (Barb Monroe/Erik Wilson) – Area variances, addition of porch and replacement of foundation within 100 feet of Otsego Lake in RA1 district – 6698 State Highway 80 (#69.76-1-3.00)

Chairman Crowell opened the Madden public hearing at 7:01 PM, gave a brief description of the application, and asked if anyone from the public had questions or comments about it. No one responded.

Clerk Bill Deane read aloud an August 14 e-mail (filed) from MaryAlyce and Audra Peterson of 6690 State Highway 80, offering “full support” for the project. Deane also noted that hearing notices addressed to neighbors Lille Gossebo, LLC (“insufficient address”) and James Sever (“vacant, unable to forward”) were returned to sender.

Crowell closed the hearing.

REGULAR MEETING

The monthly Town of Otsego Zoning Board of Appeals (ZBA) meeting was held on this date at the Town Office Building in Fly Creek, N. Y. Chairman Greg Crowell called the meeting to order at 7:04 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), Tony Scalici, and Corinne Armstrong. With Sal Furnari, and alternate members Dean Robinson and Mary Anne Whelan absent, alternate member John Tedesco joined the meeting table. Also present was Town Zoning Enforcement Officer Wylie Phillips.

Chairman Crowell asked whether any Board members had an ethical or legal conflict with tonight’s application. No one reported any conflict.

The Board reviewed the minutes of July 18, e-mailed to the members. Tedesco moved to approve the minutes as written. Armstrong seconded the motion and it was approved, 5-0.

Other than that read during the public hearing, there was no correspondence received since the last meeting. The Board moved on to the applications.

APPLICATIONS

23.04 – Robert Doran – Area variances, addition of deck within 100 feet of Canadarago Lake in RA1 district – 106 Marble Road Extension (#52.11-1-15.00)

Chairman Crowell read aloud the minutes of July 18 relevant to the Doran application. Applicant Robert Doran was present. Members reported on their site visits and observations.

With input from John Dewey, Chairman Crowell moved to approve the requested variances, specific to the proposed project (uncovered deck): a 19-foot variance on the north side, and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Canadarago Lake. Crowell said that there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that the requested variance is moderate, not substantial; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood; and that, though the alleged difficulty is self-created, that is not determinant to the decision. Corinne Armstrong seconded the motion and it was approved, 5-0.

Doran asked to be put on the September 5 Planning Board agenda.

23.06 – Bernard Madden (Barb Monroe, Erik Wilson) – Area variances, addition of porch and replacement of foundation within 100 feet of Otsego Lake in RA1 district – 6698 State Highway 80 (#69.76-1-3.00)

Clerk Bill Deane read aloud the minutes of July 18 relevant to the Madden application. Members reported on their site visits and observations.

John Dewey moved to approve the requested variances, specific to the proposed project (no future conversion to indoor/living space): a 21-foot variance on the east or Lake side; a 26-foot variance on the west or State Highway 80 side; and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake. Dewey said there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that though the requested variance is substantial, it is mitigated by the removal of the pump house; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood, and in fact will improve the stability of the bank; and that, though the alleged difficulty is self-created, it is a reasonable project. John Tedesco seconded the motion and it was approved, 5-0.

Madden asked to be put on the September 5 Planning Board agenda.

23.07 – Ken Marx (Mary Jo Cronin/Revolution Solar) – Area variances, installation of roof-mounted solar paneling within 100 feet of Otsego Lake in RA1 district – 6600 State Highway 80 (#84.08-1-32.00)

Clerk Bill Deane read aloud the minutes of July 18 relevant to the Marx application. Representative Mary Jo Cronin of Revolution Solar was present. Zoning Enforcement Officer Phillips said the \$150 application fee had not yet been paid.

Cronin said applicant Ken Marx wants to install roof-mounted solar paneling on his residence within 100 feet of Otsego Lake, about six inches above the roof-line. She submitted photos of the house

and pictures of the proposed solar paneling. The Board agreed that the only variance needed would be from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake.

Chairman Crowell moved to deem the application complete, contingent on the application fee to be delivered to the Town by September 5, and schedule a public hearing for September 19 with the same contingency. John Dewey seconded the motion and it was approved, 5-0.

23.08 – Luke Sittler (Les Sittler) – Area variance, Flood Damage Prevention Law in HR district – 101 Hoke Road (#97.00-1-48.00)

Applicant Luke Sittler and his father/representative, Les Sittler, were present. Clerk Bill Deane read aloud the minutes of August 16 and September 20, 2022 relevant to the previous Sittler application. During that meeting, the ZBA had approved a 20-foot variance on the west side for the construction of a breezeway. Since then, there had been construction delays and a new plan to also raze and replace a 16x20' shed on the property. According to Zoning Enforcement Officer Phillips, the revised plan put Sittler afoul of the Town's 2017 "Flood Damage Prevention Law," of which Phillips recently became aware. According to it, a "substantial improvement" of a residence within designated flood prevention areas requires a variance from the Law. "Substantial improvement" is defined on page 7 as "any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the 'start of construction' of the improvement."

Les Sittler objected to their being singled out for enforcement of this law – "Why us?" He said that he could not find the law on the Town's website, that their project was already approved, and that the property has never flooded in his 38 years of ownership.

The Board and applicant discussed the law and situation at length, and whether it might be more practical for Sittler to file for an interpretation rather than a variance.

John Dewey noted that, if the value of the whole structure were considered, rather than just the shed, the improvement may not meet the 50% threshold. Zoning Enforcement Officer Phillips agreed that that was reasonable. He said that if Sittler can make the case to him that this is not a substantial improvement, it will remove the need for a variance, and Sittler can withdraw his ZBA application. Phillips said he would report back to the Board when this is resolved.

OTHER BUSINESS

Zoning Enforcement Officer Phillips discussed the 29-page "Flood Damage Prevention Law." It was passed in 2017 by several Towns, including Otsego, with essentially the same language. The Otsego County Planning Department reached out a few months ago to Phillips and other Zoning Enforcement Officers, advising that the laws should be enforced.

With no further business, at 8:22 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Clerk